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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,445	01/27/2004	H. Wayne Stafford	12713.01	8675

7590 09/03/2004

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EXAMINER

GRILES, BETHANY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,445

Applicant(s)

STAFFORD, H. WAYNE

Examiner

Bethany L. Griles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/27/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-13, 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Vento US6394423.

Regarding claims 1 and 10, Vento discloses a live well oxygenator, comprising: a vessel 1, said vessel having an inner chamber enclosed by a front wall, a top wall, wall, two side walls and a bottom (see figure 1B); a first opening 20 disposed through said front wall; water pump (col 6, line 42) positioned said inner chamber, said water pump having an inlet (between elements 10 and 12) positioned at said first opening; a second opening 16 disposed through said front wall; a water return pipe 20 positioned in said inner chamber, said water return pipe having an outlet positioned said second opening; an oxygen feed valve 26 having an inlet 18 opening into said chamber, said oxygen feed valve disposed on said top wall; and an overflow 24 tube positioned in said chamber, said overflow tube communicating with said chamber through said top wall (refer to figure 1).

Regarding claims 2 and 11, Vento discloses the live well oxygenator according to claims 1 and 10, and further including, a discharge pipe 20 connected to said water

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pump, said discharge pipe positioned in said chamber and having an upper portion disposed above said pump (refer again to figure 1).

Regarding claims 3 and 12, Vento discloses the live well oxygenator according to claim 2 and 11, further including a venturi opening (col 5, lines 36-44) disposed said portion of said discharge pipe.

Regarding claims 4 and 13, Vento discloses the well oxygenator according to claims 1 and 11, further including a filter screen (col 9, lines 60-63) positioned over said first opening.

Regarding claim 6, Vento discloses the well oxygenator according claim 1, further including electrical transmission wires 22 connected said water pump and extending through said rear wall.

Regarding claims 7 and 15, Vento discloses the live well oxygenator according claims 1 and 11, wherein said water return pipe has an inlet opening 14 in said chamber, said inlet opening being spaced above said bottom (refer to orientation of opening 14 in figure 1, where it is above the bottom of the chamber, unnumbered) of said chamber.

Regarding claims 8 and 16, Vento discloses the live well oxygenator according to claims 1 and 11, wherein said overflow tube 24 has an open end 28 disposed in said chamber, said open end being spaced above said bottom said chamber (please refer to orientation of parts in figure 3).

Regarding claims 9 and 17, Vento discloses the live well oxygenator according to claims 1 and 11, wherein said vessel has an outer surface and wherein an array of mounting tabs is disposed on said outer surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vento in view of Morse US3904393.

Regarding claims 5 and 14, Vento discloses the live well oxygenator according to claims 1 and 11, with a second opening 16.

Vento does not disclose a screen over the second opening 16.

Morse discloses a second opening 48 with a filter 58.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Morse of a second filter over the second opening to the live well oxygenator of Vento in order to remove impurities from the water and infused air going into the tank.

Conclusion

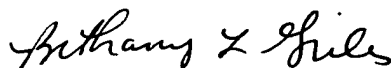
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Balestreieri US5190647; Willinger US3640516; Vento US5582777; Vento US6655663.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

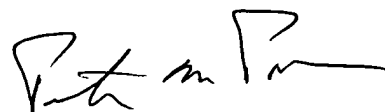
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bethany L. Griles
Examiner
Art Unit 3643

blg



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600